

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Jeffrey G. Anderson, et al.

Serial Number: 10/053,402

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Title: LOCAL AGENT FOR REMOTE
FILE ACCESS SYSTEM

§ Atty.Dkt.No.: 6257-33902

§ Examiner: Tang, Karen C.

§ Group/Art Unit: 2447

§ Conf. No. 1590

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/Luiz von Paumgarten/
Luiz von Paumgarten, # 52,330

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Appellant requests pre-appeal review of the Final Office Action mailed on February 8, 2011 ("Final Office Action") in the above-identified application. No amendments are being presented with this request. This request is being filed with a notice of appeal. Reconsideration of the present case is respectfully requested in light of the following remarks.

ARGUMENTS

Claims 1-16, 19, 20, and 31-35 are pending in this case. All claims stand rejected under 35 U.S.C. § 103 over *Baru* (7,028,252) in view of *Alley* (2007/0174428). Appellant respectfully asserts that the proposed combination of *Baru* with *Alley*, even if proper, would not teach or suggest several elements recited in the claims.

- I. The proposed combination of *Baru* with *Alley* does not teach or suggest “a local computer periodically polling a server for task requests ... generated by a remote computer [and,] in response to receiving [a] task request[], the local computer transmitting [a] file to the server.”**

Claim 1 recites, in part:

a local computer periodically polling a server for task requests ...
generated by a remote computer ...
in response to said periodically polling, the local computer receiving [a]
task request[], wherein at least portion of [the] task request[]
comprises a request for a file stored on the local computer ...; and
in response to receiving [the] task request[], the local computer
transmitting the file to the server.

The Final Office Action relies solely upon *Baru* as allegedly teaching or suggesting these elements. Final Office Action, pp. 2-3. Particularly, the Final Office Action appears to rely upon *Baru*’s “content provider” as allegedly meeting the recited “local computer.” *See id.* However, Appellant notes that *Baru*’s server “continually collects” content from a content provider in the absence of a client request, and stores the “pre-collected” content in a “local data store” or “universal database 152.” Upon receiving a client request, *Baru*’s server then retrieves the requested content from its own local store; not from the content provider. *See, e.g., Baru*, 6:25-40 (“Broadly, *the system 100* is operated by an information delivery agency and *serves to continually collect electronic data from the content providers 108* via the Internet 102 and/or additional conveyances 103. *Responsive to customer requests, the system 100 selectively retrieves data from local stores* in areas of interest to the inquiring customers, formats the data, and transmits the data to customer’s playback devices such as 104, 109, 111. As a specific example, the data may be transmitted in audio form to the callers’ telephones 104 via telephone

networks such as 106. As explained below, *the system 100 can rapidly convey information to customers because the underlying data is pre-collected*” (emphasis added)); 24:28-49; FIGS. 7A-B (“During the playback session, the system 100 retrieves the customer’s pre-stored content preferences and proceeds to identify *information already present in the universal database* that pertains to those particular content preferences.” (emphasis added)); 24:64-25:3 (“[W]ith the caller’s content preferences, the session server 156 uses these preferences to retrieve information (step 708) from the universal database 152 in satisfaction of these preferences. In the illustrated example, the session *server 156 retrieves (1) text content stored in the universal database 152, and (2) pointers to digital audio files stored in the database 152.*” (emphasis added)).

In that regard, Appellant submits that *Baru*’s teachings are in sharp contrast with the recitations of claim 1. Specifically, *Baru*’s “content provider” continually provides content to a server in the absence of client requests, whereas the “local computer” of claim 1: “periodically poll[s] a server for task requests ... generated by a remote computer,” “in response to said periodically polling ... receive[s] a task request,” and “in response to receiving [the] task request[] ... transmit[s] a file to the server.” In other words, while the local computer of claim 1 transmits a file to a server in response to having received a task request generated by a remote computer, *Baru*’s “content provider” transmits content to its server independently of a remote computer’s request.

The Final Office Action does not rely upon *Alley* as curing the aforementioned deficiencies and Appellant asserts that it does not. Thus, the proposed combination of *Baru* with *Alley*, even if proper, does not teach or suggest the aforementioned elements of claim 1. Although claims 8 and 15 recite different elements, similar arguments apply. Accordingly, Appellant respectfully requests that the 35 U.S.C. § 103 rejection of claims 1, 8, and 15 (and their respective dependent claims) be withdrawn.

II. The Proposed Combination of *Baru* with *Alley* does not teach or suggest “a local computer periodically polling a server for task requests ... generated by a remote computer distinct from the local computer.”

As noted above, claim 1 recites, in part:

a local computer periodically polling a server for task requests ...
generated by a remote computer distinct from the local computer.

The Final Office Action appears to rely upon *Baru*'s "download events" as causing its "content provider" to "periodically poll" a server. Final Office Action, pp. 2-3. Appellant notes that, *Baru*'s "download events" are "self-scheduled reminder[s] to start downloading information from one or more content providers" that cause the content provider to initiate contact with a server in order to start a transfer of information to that server. *See, e.g., Baru*, 17:53-66 ("[S]tep 402 waits for a 'download event' to occur. A download event may occur at the content processor 160 and/or at a content provider 108, and triggers downloading information from a content provider 108 to the content processor 160. Download events may occur periodically, randomly, on a non-periodic schedule, or another basis. At the content processor 160, for example, a download event may constitute a self-scheduled reminder to start downloading information from one or more content providers particular to that reminder. These reminders may be scheduled periodically (such as every hour, day, etc.), randomly, non-periodically (e.g., whenever a news alert is received), or according to another desired schedule."); 18:10-13 ("Download events may be initiated by the content providers 108 as well, such as when a content provider self-initiates data transfer to the content processor 160 according to its own schedule."); 18:22-30 ("In the case of a download event at the content processor 160, contact in step 404 is initiated by the content processor 160. For instance, the content processor 160 may initiate contact (step 404) with the content provider 108 in order to request that content provider 108 to start downloading data, engage in handshaking or other tasks related to establishing communications, etc. In the case of a download event at the content provider 108, contact in step 404 is initiated by that content provider 108.").

At the outset, Appellant notes that the "download events" of *Baru*'s content provider do not cause the content provider to "periodically" poll a server, but instead simply cause the content provider to initiate a transfer of content to the server. Furthermore, even assuming (without conceding) that *Baru*'s "download events" could be interpreted as causing "content provider" to "periodically poll" *Baru*'s server, such "periodically polling" would not be "for task requests ... generated by a remote computer," as recited in claim 1. Particularly, there is no indication that *Baru*'s content provider polls a server for a request generated by *Baru*'s client.

Therefore, *Baru* does not teach or suggest “a local computer periodically polling a server for task requests ... generated by a remote computer distinct from the local computer,” as recited in claim 1.

The Final Office Action does not rely upon *Alley* as curing the aforementioned deficiencies and Appellant asserts that it does not. Thus, the proposed combination of *Baru* with *Alley*, even if proper, does not teach or suggest the aforementioned elements of claim 1. Although claims 8 and 15 recite different elements, similar arguments apply. Accordingly, Appellant respectfully requests that the 35 U.S.C. § 103 rejection of claims 1, 8, and 15 (and their respective dependent claims) be withdrawn.

* * *

Appellant submits that the application is in condition for allowance, and an early notice to that effect is requested. If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/6257-33902/LVP.

Respectfully submitted,

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By: /Luiz von Paumgarten/
Luiz von Paumgarten
Reg. No. 52,330

Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P. O. Box 398
Austin, Texas 78767
(512) 853-8800